

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ABELARDO CUEVAS,)	
Petitioner)	CIVIL ACTION NO.
)	05-11474-REK
v.)	
)	
UNITED STATES OF AMERICA,)	
Respondent)	
)	

**Government's Motion To Extend Time
Within Which To File Its Response To
Petitioner's Motion Under 28 U.S.C. § 2255**

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro, Assistant U.S. Attorney, hereby files this motion to extend the time within which to file its response to the petitioner's motion under 28 U.S.C. § 2255.

In support of this motion, the government states as follows:

1. In 1992, the petitioner was convicted by a jury of narcotics trafficking and, in January 1993, he was sentenced by this Court to 235 months' imprisonment in Criminal No. 92-10021-REK.

2. On June 27, 2005, the petitioner filed a motion under 28 U.S.C. § 2255 to vacate his sentence. On July 14, 2005, the Court entered an Order requiring the government to file a response within 60 days of its receipt of the Order.

3. This is the petitioner's second petition under §2255. In April 1997, the petitioner filed a § 2255 petition, which was dismissed by the Court in June 1998. Civil Action No. 97-10976-

REK.

4. In order to proceed with his current petition, the petitioner must obtain permission from the Court of Appeals to file a second or successive petition. The petitioner has filed an application with the Court of Appeals seeking such permission and the application is still pending. Appeals Court No. 05-1997. This case cannot proceed until the Court of Appeals grants permission.

The government therefore respectfully requests that the Court extend the time within which the government is to file its response to such time as the Court of Appeals notifies this Court that the petitioner has permission to proceed in this case.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Michael J. Pelgro
Michael J. Pelgro
Assistant U.S. Attorney

DATED: July 21, 2005.

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Abelardo Cuevas
Inmate No. 18852-038
FCI Fort Dix
P.O. Box 7000
Fort Dix, NJ 08640

This 21st day of July 2005.

s/Michael J. Pelgro
MICHAEL J. PELGRO
ASSISTANT UNITED STATES ATTORNEY